



Serial No. 09/295,958; Navy Case No. 79628

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re application of:
RICHARD C. ADAMS et al
Serial No.: 09/295,958
Filed: 21 April 1999
For: DEVICE FOR SIMULTANEOUS TRANSMISSION OF TWO SIGNALS WITH
IDENTICAL FREQUENCIES

Examiner: XXXX
Group Art Unit: XXXX

DECLARATION OF PETITIONER

Honorable Commissioner of Patent and Trademarks
Washington, D.C. 20231

I Peter A. Lipovsky declare:

- 1) Corresponding to the above-referenced U.S. Patent Application Serial Number 09/295,958, no "Notice to File Missing Parts" (hereafter "Notice") was received by Petitioners or their legal representatives.
- 2) I have personally conducted a search of the docket records and the file jacket pertaining to the above-referenced case and this search indicates that the Notice was not received. This search consisted of examining the "case card" (exhibit A) as we call it for the above-referenced case; the file jacket for the case (Exhibit B) and the attorney docket sheets for the time in question (Exhibits C and D). As can be seen from these exhibits, none of these disclose or otherwise reference the receipt of the Notice at issue.

Exhibit A, the "case card" for the above referenced case, indicates preliminary actions taken on the case, indicates filing of the case, and also serves to indicate all written communications received and returned to the Patent Office. Exhibit A has no indication that a Notice to File Missing Parts of Application was received from the Patent Office.

Exhibit B is a copy of the exterior of the file jacket pertaining to the above-referenced

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case upon which important identification information is inserted as well as a record of all documents received by the Patent and Trademark Office as well as those documents sent to the Patent Office for this patent application. As can be seen from this copy of the file jacket, no record exists showing the Notice was received for this case.

Further included to substantiate the records are Exhibits C, D and E which are edited copies of the docket of the attorney handling the case in issue for the time in question. As the above-referenced case was filed at the end of April 1999, Exhibit C is a copy of the attorney's docket for the month of April, 1999, Exhibit D is a copy of the attorney's docket for the month of May, 1999 and finally Exhibit E is a copy of the attorney's docket for the month of June, 1999. None of these docket reports shows any indication that a response was due under a Notice to File Missing Parts for Navy Case Number 79628, the case in issue. Please note that the editing was done to protect dates corresponding to receipt of invention disclosures. No such editing was done in the "Response Due Cases" category. Exhibits A and B were similarly edited to protect crucial dates prior to filing, such as date of disclosure. These dates are not considered relevant here. No editing was done however to any of the records pertaining to correspondence received from the Patent Office.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Serial No. 09/295,958; Navy Case No. 79628

2 May 2000

DATE

Peter A. Lipovsky

PETER A. LIPOVSKY
Attorney of Record
Registration No. 32580

2 May 2000
Legal Counsel for Patents D0012
Attention: Mr. Peter A. Lipovsky
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PTO/SB/01 (12-97)

Approved for use through 9/30/00. OMB 0651-0032

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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#5

**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

Declaration Submitted with Initial Filing Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number		79628
First Named Inventor		R. C. Adams et al.
COMPLETE IF KNOWN		
Application Number		-- 09 / 295,958
Filing Date		-- 21 April 1999
Group Art Unit		--
Examiner Name		--

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**DEVICE FOR SIMULTANEOUS TRANSMISSION OF TWO SIGNALS WITH
IDENTICAL FREQUENCY**

the specification of which

(Title of the Invention)

is attached hereto

OR

was filed on (MM/DD/YYYY) as United States Application Number or PCT International

Application Number and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box; any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	
		<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

encl.12

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a valid OMB control number.

DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)					
<input type="checkbox"/> Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.							
As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: <input type="checkbox"/> Customer Number <input style="width: 100px;" type="text"/> → <input type="checkbox"/> Registered practitioner(s) name/registration number listed below							
<input type="checkbox"/> Customer Number <input style="width: 100px;" type="text"/> → <input type="checkbox"/> Registered practitioner(s) name/registration number listed below							
Name	Registration Number	Name	Registration Number				
Harvey Fendelman	27,030						
Michael A. Kagan	33,188						
Peter A. Lipovsky	32,580						
Eric James Whitesell	38,657						
<input type="checkbox"/> Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.							
Direct all correspondence to: <input type="checkbox"/> Customer Number or Bar Code Label <input style="width: 100px;" type="text"/> OR <input checked="" type="checkbox"/> Correspondence address below							
Name	Commanding Officer, Office of Patent Counsel						
Address	SPAWARSCEN D0012						
Address	53510 Silvergate Ave. Rm 103						
City	San Diego	State	CA	ZIP	92152-5765		
Country	US	Telephone	619-553-3001		Fax 619-553-3821		
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.							
Name of Sole or First Inventor:		<input type="checkbox"/> A petition has been filed for this unsigned inventor					
Given Name (first and middle if any)		Family Name or Surname					
Richard C.		Adams					
Inventor's Signature				Date			
Residence: City	San Diego	State	CA	Country	U.S.A.		
Post Office Address	4878 Saratoga Avenue, #204					Citizenship	U.S.A.
Post Office Address	San Diego, CA 92107					Country	U.S.A.
City	San Diego	State	CA	ZIP	92107	Country	U.S.A.
<input checked="" type="checkbox"/> Additional inventors are being named on the <u>1</u> supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto							